

HOUSE BILL NO. 360

INTRODUCED BY LEWIS

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VOLUNTARY EMPLOYMENT TERMINATION
5 INCENTIVE ACT; DEFINING TERMS; PROVIDING AN INCENTIVE TO ELIGIBLE STATE EMPLOYEES WHO
6 VOLUNTARILY TERMINATE EMPLOYMENT WITHIN A SPECIFIED TIME PERIOD; SPECIFYING THE
7 FEATURES OF THE INCENTIVE; SPECIFYING THE POWERS AND DUTIES OF THE APPROVING
8 AUTHORITY WITH RESPECT TO MANAGING THE WORK FORCE REDUCTIONS CAUSED BY THE
9 TERMINATION INCENTIVE; ESTABLISHING A TRUST FUND FROM WHICH INCENTIVE BENEFITS AND
10 ASSOCIATED COMPENSATION FOR UNUSED VACATION AND SICK LEAVE MUST BE PAID; ~~PROVIDING~~
11 ~~AN APPROPRIATION FROM THE COAL SEVERANCE TAX PERMANENT FUND~~ REQUIRING CERTAIN
12 FUNDS TO BE TRANSFERRED INTO THE TRUST FUND; PROVIDING A STATUTORY APPROPRIATION;
13 AMENDING SECTIONS 2-18-704 ~~AND~~, 17-2-107, 17-7-139, AND 17-7-502, MCA; AND PROVIDING AN
14 IMMEDIATE EFFECTIVE DATE."

15
16 WHEREAS, state budget restrictions will require significant reductions in state agency personal services
17 budgets; and

18 WHEREAS, providing state employees with an incentive to voluntarily terminate employment within a
19 specified timeframe will benefit employees, achieve vacancy savings, and avoid forced layoffs; and

20 WHEREAS, the incentive provided in this bill is projected to induce ~~578~~ 963 current state employees
21 to voluntarily leave employment; and

22 WHEREAS, if ~~578~~ 963 state employees voluntarily leave employment and 400 of the vacated positions
23 are eliminated, if state agencies keep the remaining positions vacant for at least 3 months, and if positions are
24 either eliminated or are refilled by employees paid a base salary that is no more than 90% of the base salary,
25 plus longevity, paid to the terminating employee, then the savings in personal services costs is projected to be
26 ~~\$34,913,627~~ \$46,876,995 for the biennium based on House Bill No. 2 personal service reductions totaling
27 ~~\$31,894,609~~ \$42,200,000 and other personal service reductions totaling ~~\$3,019,018~~ \$4,700,000; and

28 WHEREAS, SAVINGS OF \$42,000,000 IN EACH SUBSEQUENT BIENNIUM IS PROJECTED; AND

29 WHEREAS, ~~a one-time appropriation of \$13,825,146~~ TRANSFERS TOTALING \$31,600,000, plus interest,
30 will fund the incentive ~~and~~ payments OF \$26,100,000 AND PAYMENTS OF \$5,500,000 for unused vacation leave

1 and sick leave credit projected to be due pursuant to this bill; and

2 WHEREAS, the savings achieved is about ~~2-1/2~~ 1.8 times the cost of the incentive THIS BIENNIUM.

3

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

5

6 NEW SECTION. Section 1. Short title. [Sections 1 through ~~7~~ 8] may be cited as the "Voluntary
7 Employment Termination Incentive Act".

8

9 NEW SECTION. Section 2. Definitions. As used in [sections 1 through ~~7~~ 8], the following definitions
10 apply.

11 (1) "Agency" ~~has the meaning provided in 2-18-101~~ MEANS A DEPARTMENT, BOARD, COMMISSION, OFFICE,
12 BUREAU, INSTITUTION, OR UNIT OF STATE GOVERNMENT RECOGNIZED IN THE STATE BUDGET, not including the Montana
13 university system.

14 (2) "Approving authority" has the meaning provided in 17-7-102(3)(a) through (3)(e).

15 (3) "Full-time employee" means a state agency employee who regularly works 40 hours a week or more
16 throughout the year, NOT INCLUDING:

17 (A) AN ELECTED OFFICIAL, AS DEFINED IN 5-7-102;

18 (B) MEMBERS OF BOARDS AND COMMISSIONS APPOINTED BY THE GOVERNOR, THE LEGISLATURE, OR OTHER
19 ELECTED STATE OFFICIALS; AND

20 (C) PERSONAL STAFF AS DEFINED IN 2-18-101.

21 (4) "Permanent employee" has the meaning provided in 2-18-101.

22

23 NEW SECTION. Section 3. Voluntary employment termination incentive -- eligibility -- benefits.

24 (1) A state agency employee is eligible for the voluntary employment termination incentive if the employee:

25 (a) is a permanent and full-time employee;

26 (b) voluntarily terminates employment on or after July 1, 2003, but before September 30, 2003, except
27 as provided under [section 5(2)];

28 (c) waives the benefits provided pursuant to the State Employee Protection Act under Title 2, chapter
29 18, part 12, except as provided in subsection (2)(c); and

30 (d) complies with the return-to-work limitation in subsection (3).

1 (2) A state employee eligible under subsection (1) is entitled to:

2 (a) a cash incentive totaling 3% of the employee's base salary, plus longevity, as it was on the
3 employee's termination date, for each year of continuous employment, as defined in 2-18-601, plus ~~5%~~ 3%
4 interest compounded annually on the unpaid balance due pursuant to this subsection (2)(a), which must be paid
5 as an annuity, subject to the following provisions:

6 (i) CONTINUOUS EMPLOYMENT DOES NOT INCLUDE PRIOR SERVICE AS AN ELECTED OFFICIAL, AS DEFINED IN
7 5-7-102;

8 ~~(ii)~~(ii) the total amount paid to an employee may not exceed the employee's annual base salary, plus
9 longevity, plus ~~5%~~ 3% interest compounded annually on the unpaid balance;

10 ~~(iii)~~(iii) the annuity must be paid in equal ~~monthly~~ payments over a period determined by the eligible
11 employee;

12 ~~(iv)~~(iv) a monthly payment may not be less than \$250 or the remaining balance due pursuant to this
13 subsection (2)(a); and

14 ~~(v)~~(v) the total number of monthly payments to the employee may not exceed 120;

15 (b) remain on the state group health insurance plan as provided for in 2-18-704(9); and

16 (c) access job training programs provided for in 2-18-1203(1)(b) if the employee pays the tuition or fee
17 charged for program participation.

18 (3) An employee who voluntarily terminates employment and receives the benefits provided under
19 subsection (2) may not return to employment with any agency for more than 960 hours in a calendar year unless
20 the employee forfeits the benefits and repays any annuity payments received under subsection (2)(a).

21 (4) A PAYMENT RECEIVED BY AN EMPLOYEE PURSUANT TO THIS SECTION IS NOT AND MAY NOT BE INTERPRETED
22 TO BE:

23 (A) TERMINATION PAY, AS THE TERM IS DEFINED IN 19-20-101 AND USED IN THE TEACHERS' RETIREMENT SYSTEM
24 PROVISIONS CONTAINED IN 19-20-716; OR

25 (B) COMPENSATION FOR THE PURPOSES OF ANY RETIREMENT SYSTEM OR PLAN CONTAINED IN TITLE 19.

26
27 NEW SECTION. Section 4. Payout of leave credit. Compensation for unused vacation leave under
28 2-18-617(2) and for unused sick leave under 2-18-618(6) or 2-18-1311 to an employee who voluntarily
29 terminates employment pursuant to [sections 1 through ~~7~~ 8] must be paid from the account established in
30 [section 6].

1

2 **NEW SECTION. Section 5. Approving authority responsibilities -- special conditions -- waivers.**3 (1) Each approving authority shall, if necessary, manage reductions in workforce resulting from the incentive
4 provided under [sections 1 through 7 8] by transferring personal service budgets between programs, agencies,
5 and fiscal years as provided in 17-7-139(3).6 (2) Until December 31, 2003, the approving authority may provide up to three 30-day time periods, in
7 addition to the time period provided in [section 3(1)(b)], during which an employee may terminate service and
8 be eligible for the incentive provided in [section 3].9 (3) Each approving authority shall notify employees of their options pursuant to [sections 1 through 7
10 8] within 30 days after [the effective date of this act].

11

12 **NEW SECTION. Section 6. Termination incentive trust fund account -- STATUTORY APPROPRIATION**13 **-- reversion to the coal severance tax permanent GENERAL fund.** (1) There is an account established as an
14 employee benefit trust fund type, as provided in 17-2-102(3)(c), to the credit of the department of administration.

15 (2) Interest earned on funds in the account must remain in the account.

16 (3) Except as provided in subsection ~~(4)~~ (5), funds in the account may be used only to pay for the costs
17 of providing the voluntary employment termination incentive provided in [section 3] and the compensation for
18 unused annual vacation leave and sick leave provided in [section 4].19 ~~(4) MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE DEPARTMENT~~
20 ~~OF ADMINISTRATION.~~21 ~~(4)(5)~~ After all costs pursuant to [sections 1 through 7 8] have been paid, any unexpended funds in the
22 account must revert to the ~~coal severance tax permanent fund established in 17-5-703~~ GENERAL FUND.

23

24 **NEW SECTION. Section 7. Rulemaking authority.** The department of administration may adopt rules
25 to implement the provisions of [sections 1 through 7 8].

26

27 **NEW SECTION. SECTION 8. FUNDING OF EMPLOYEE TERMINATION INCENTIVE -- FUND TRANSFERS --**28 **INTERENTITY LOANS.** (1) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT PURSUANT TO [SECTIONS
29 1 THROUGH 8], EACH AGENCY SHALL DETERMINE THE COST OF THE PAYMENTS TO BE PROVIDED TO THE EMPLOYEE
30 PURSUANT TO [SECTIONS 3 AND 4].

1 (2) (A) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT UNDER [SECTIONS 1 THROUGH 8]
 2 AND WHO IS COMPENSATED IN WHOLE OR IN PART FROM NONGENERAL FUND MONEY OR NONFEDERAL FUND MONEY, THE
 3 AGENCY SHALL, AT THE TIME OF THE EMPLOYEE'S TERMINATION, TRANSFER TO THE ACCOUNT ESTABLISHED IN [SECTION
 4 6] AN AMOUNT EQUAL TO THE PROPORTIONATE SHARE OF THE COST OF PROVIDING THE PAYMENTS PURSUANT TO
 5 [SECTIONS 1 THROUGH 8] FOR THAT EMPLOYEE. THE PROPORTIONATE SHARE MUST BE CALCULATED BASED ON THE
 6 NONGENERAL AND NONFEDERAL FUNDS USED TO COMPENSATE THE EMPLOYEE DURING THE 2002 FISCAL YEAR.

7 (B) IF AN AGENCY, IN CONSULTATION WITH THE APPROVING AUTHORITY, DETERMINES THAT IT DOES NOT HAVE
 8 SUFFICIENT FUNDS TO COMPLETE THE TRANSFER REQUIRED IN SUBSECTION (2)(A) AT THE TIME OF THE EMPLOYEE'S
 9 TERMINATION OR THAT THE TRANSFER WOULD LIMIT THE AGENCY'S ABILITY TO MEET MATCHING FUND REQUIREMENTS, THE
 10 APPROVING AUTHORITY MAY APPROVE A PAYMENT SCHEDULE FOR THE AGENCY TO TRANSFER THE FUNDS, PLUS 3%
 11 INTEREST ON THE FUNDS COMPOUNDED ANNUALLY, OVER A PERIOD OF TIME NOT EXCEEDING 5 YEARS FROM THE ORIGINAL
 12 DATE OF THE TRANSFER REQUIRED UNDER SUBSECTION (2)(A).

13 (3) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT UNDER [SECTIONS 1 THROUGH 8], EACH
 14 AGENCY SHALL DETERMINE THE SHARE OF FEDERAL FUNDS ASSOCIATED WITH THE COST OF THE PAYMENTS THAT MUST
 15 BE MADE TO THE EMPLOYEE PURSUANT TO [SECTIONS 1 THROUGH 8] AND SHALL PROVIDE THIS INFORMATION TO THE
 16 DEPARTMENT OF ADMINISTRATION FOR INCLUSION IN THE STATEWIDE COST ALLOCATION PLAN PROVIDED FOR IN 17-3-110.
 17 ANY FEDERAL FUNDS RECEIVED BY THE AGENCY AS REIMBURSEMENTS FOR COSTS INCURRED PURSUANT TO [SECTIONS
 18 1 THROUGH 8] MUST BE DEPOSITED IN THE GENERAL FUND, AS PROVIDED IN 17-3-111(2), THEN TRANSFERRED BY THE
 19 AGENCY TO THE ACCOUNT ESTABLISHED IN [SECTION 6].

20 (4) ON AUGUST 1, 2003, THE BUDGET DIRECTOR, APPOINTED PURSUANT TO 17-7-103, SHALL TRANSFER FROM
 21 THE GENERAL FUND TO THE ACCOUNT ESTABLISHED IN [SECTION 6] \$18,268,000.

22 (5) THE DEPARTMENT MAY PROVIDE INTERENTITY LOANS PURSUANT TO 17-2-107 TO THE ACCOUNT ESTABLISHED
 23 IN [SECTION 6] IF THE LOANS ARE NECESSARY TO MEET CASHFLOW DEMANDS PURSUANT TO OBLIGATIONS INCURRED
 24 UNDER [SECTIONS 1 THROUGH 8]. THE TIME PERIOD OVER WHICH THE LOANS MUST BE REPAYED MAY BE EXTENDED, AS
 25 PROVIDED IN 17-2-107(3), FOR ADDITIONAL 1-YEAR PERIODS, UP TO A TOTAL OF 5 YEARS.

26
 27 **Section 9.** Section 2-18-704, MCA, is amended to read:
 28 **"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must
 29 contain provisions that permit:

30 (a) the member of a group who retires from active service under the appropriate retirement provisions

1 of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19,
2 chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered
3 employment to remain a member of the group until the member becomes eligible for medicare under the federal
4 Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless the member is a participant in another
5 group plan with substantially the same or greater benefits at an equivalent cost or unless the member is
6 employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the
7 same or greater benefits at an equivalent cost;

8 (b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible
9 for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for
10 medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for
11 equivalent insurance coverage as provided in subsection (1)(a);

12 (c) the surviving children of a member to remain members of the group as long as they are eligible for
13 retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage
14 as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving
15 parent or legal guardian.

16 (2) An insurance contract or plan issued under this part must contain the provisions of subsection (1)
17 for remaining a member of the group and also must permit:

18 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

19 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

20 (c) continued membership in the group by anyone eligible under the provisions of this section,
21 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

22 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a
23 member of the state's group plan until the legislator becomes eligible for medicare under the federal Health
24 Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

25 (i) terminates service in the legislature and is a vested member of a state retirement system provided
26 by law; and

27 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
28 legislative term.

29 (b) A former legislator may not remain a member of the group plan under the provisions of subsection
30 (3)(a) if the person:

- 1 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or
2 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with
3 substantially the same or greater benefits at an equivalent cost.
- 4 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
5 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
6 legislator.
- 7 (4) (a) A state insurance contract or plan must contain provisions that permit continued membership
8 in the state's group plan by a member of the judges' retirement system who leaves judicial office but continues
9 to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall
10 notify the department of administration in writing within 90 days of the end of the judge's judicial service of the
11 judge's choice to continue membership in the group plan.
- 12 (b) A former judge may not remain a member of the group plan under the provisions of this subsection
13 (4) if the person:
- 14 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;
15 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with
16 substantially the same or greater benefits at an equivalent cost; or
17 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395,
18 as amended.
- 19 (c) A judge who remains a member of the group under the provisions of this subsection (4) and
20 subsequently terminates membership may not rejoin the group plan unless the person again serves in a position
21 covered by the state's group plan.
- 22 (5) A person electing to remain a member of the group under subsection (1), (2), (3), ~~or (4)~~, or (9), shall
23 pay the full premium for coverage and for that of the person's covered dependents.
- 24 (6) An insurance contract or plan issued under this part that provides for the dispensing of prescription
25 drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:
- 26 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in
27 Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions,
28 including the same professional requirements that are met by the mail service pharmacy for a drug, without
29 financial penalty to the member; and
30 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title

1 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

2 (7) An insurance contract or plan issued under this part must include coverage for treatment of inborn
3 errors of metabolism, as provided for in 33-22-131.

4 (8) An insurance contract or plan issued under this part must include substantially equivalent or greater
5 coverage for outpatient self-management training and education for the treatment of diabetes and certain
6 diabetic equipment and supplies as provided in 33-22-129.

7 (9) A state insurance contract issued under this part must permit an employee eligible for the benefit
8 provided pursuant to [section 3(2)(b)] to remain a member of the group health insurance plan for up to 5 years
9 after the employee's voluntary termination pursuant to [sections 1 through 7 8]. The years during which an
10 employee remains a plan member under this subsection must be considered active service or covered
11 employment for the purposes of determining the employee's continued eligibility to remain on the group health
12 insurance plan under subsection (1)(a). The provisions of this subsection are in addition to the other rights and
13 benefits provided for in this section."

14

15 **SECTION 10. SECTION 17-2-107, MCA, IS AMENDED TO READ:**

16 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department shall record
17 receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall
18 maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting
19 entity. The department shall adopt the necessary procedures to ensure that interdepartmental or
20 intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental
21 costs and revenue.

22 (2) (a) Subject to 17-2-105, when the expenditure of an appropriation from a fund designated in
23 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from which the appropriation
24 was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted
25 money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay
26 the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity
27 receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper
28 demands on the accounting entity cannot be met even if the loan is extended.

29 (b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the
30 cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner

1 of higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this
2 section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will
3 be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records.
4 A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands
5 on the fund or subfund cannot be met even if the loan is extended.

6 (ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established
7 for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only
8 accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

9 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on
10 which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

11 (3) Under unusual circumstances, the director of the department or the board of regents may grant one
12 extension for up to 1 year, except as provided in [section 8(5)], for a loan made under subsection (2)(a) or (2)(b).
13 The director or board shall prepare a written justification and proposed repayment plan for each loan extension
14 authorized and shall furnish a copy of the written justification and proposed repayment plan to the house
15 appropriations and senate finance and claims committees at the next legislative session.

16 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b)
17 through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the
18 board of investments' short-term investment pool.

19 (5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same
20 accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education
21 shall submit to the legislative finance committee by September 1 of the following fiscal year a written report
22 containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the
23 accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

24 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in
25 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative
26 finance committee by September 1 of the following fiscal year a written report containing an explanation as to
27 why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and
28 a plan to address any problems concerning the accounting entity's negative cash balance or solvency.

29 (7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative
30 cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry

1 a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than
2 7 working days.

3 (b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall
4 maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

5 (ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund
6 or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance
7 exists for more than 7 working days, a transaction may not be processed through the statewide accounting
8 system for that fund or subfund.

9 (8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans
10 to accounting entities in the federal and state special revenue funds with long-term repayment whenever
11 necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other
12 governmental entity sources for disbursements made. If possible, the loans must be made from funds other than
13 the general fund. The department may approve the loans if the requesting agency can demonstrate that the total
14 loan balance does not exceed total receivables from federal, private, or other governmental entity sources and
15 receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may
16 be determined by the department or by specific legislative authorization.

17 (9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal
18 or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and
19 will continue to bill the federal government or other third party for the requesting agency's share of costs incurred
20 in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations
21 applicable to the program. The requesting agency shall recertify its timely billing status to the agency that
22 approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to
23 recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its
24 original source."

25

26 **Section 11.** Section 17-7-139, MCA, is amended to read:

27 "**17-7-139. Program transfers.** (1) (a) Unless prohibited by law or a condition contained in the general
28 appropriations act, the approving authority may approve agency requests to transfer appropriations between
29 programs within each fund type within each fiscal year. ~~The~~ Subject to subsection (3), the legislature may restrict
30 the use of funds appropriated for personal services to allow use only for the purpose of the appropriation.

1 **(b)** An explanation of any transfer that involves a significant change in agency or program scope,
2 objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment
3 by the legislative finance committee prior to any implementation of the change. If the approving authority certifies
4 that a request for a transfer representing a significant change in agency or program scope, objectives, activities,
5 or expenditures is time-sensitive, the approving authority may approve the transfer prior to the next regularly
6 scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed
7 time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines
8 that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately
9 notify as many members as possible of the proposed change and communicate any concerns expressed to the
10 approving authority. The approving authority shall present a report fully explaining the reasons for the action to
11 the next meeting of the legislative finance committee.

12 **(c)** All program transfers must be completed within the same fund from which the transfer originated.
13 A request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted
14 by the requesting agency to the approving authority and the office of budget and program planning. Upon
15 approval of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the
16 approved transfer and the justification for the transfer. If money appropriated for a fiscal year is transferred to
17 another fiscal year, the money may not be retransferred, except that money remaining from projected costs for
18 spring fires estimated in the last quarter of the first year of a biennium may be retransferred.

19 (2) For the purposes of subsection (1), an agency or program is considered to have a significant change
20 in its scope, objectives, activities, or expenditures if:

21 (a) the budget transfer exceeds \$1 million; or

22 (b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater than
23 \$25,000. If there have been other transfers to or from the program in the current fiscal year, all the transfers,
24 including the transfer under consideration, must be used in determining the 25% and \$25,000 threshold.

25 **(3)** To manage the workforce reductions caused pursuant to the Voluntary Employment Termination
26 Incentive Act, provided for in [sections 1 through 7 8], the approving authority for the executive branch may, in
27 addition to program transfers authorized under subsection (1), transfer up to 50% of a program's personal
28 services budget between state agencies unless the transfer is prohibited by the general appropriations act, or
29 by law."

30

1 **SECTION 12. SECTION 17-7-502, MCA, IS AMENDED TO READ:**

2 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
4 the need for a biennial legislative appropriation or budget amendment.

5 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
6 of the following provisions:

7 (a) The law containing the statutory authority must be listed in subsection (3).

8 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
9 appropriation is made as provided in this section.

10 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; section
11 6; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
12 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;
13 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
14 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631;
15 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703;
16 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;
17 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

18 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
19 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
20 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
21 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
22 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
23 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
24 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
25 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
26 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
27 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
28 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
29 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

30

1 ~~NEW SECTION. Section 10. Transfer from coal tax permanent fund -- appropriation.~~ (1) There
 2 is transferred from the coal severance tax permanent fund established in Article IX, section 5, of the Montana
 3 constitution and provided for in 17-5-703 to the trust fund established in [section 6] \$13,825,146 for fiscal year
 4 2004.

5 ~~(2) There is appropriated to the department of administration from the trust fund established in [section~~
 6 ~~6] \$13,825,146 in fiscal year 2004 to implement [sections 1 through 7].~~

7
 8 NEW SECTION. Section 13. Contingent voidness. (1) If [this act] and House Bill No. 2 are both
 9 passed and approved and if the appropriations contained in House Bill No. 2 are not accompanied by a narrative
 10 stating that appropriated amounts for personal services reflect reductions totaling at least ~~\$31.8~~ \$42.2 million
 11 as the savings anticipated pursuant to [this act], then [this act] is void.

12 (2) IF HOUSE BILL NO. 363 IS NOT PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

13
 14 ~~NEW SECTION. Section 12. Three-fourths vote required.~~ Because [section 10] transfers money from
 15 the coal severance tax trust fund for appropriation, Article IX, section 5, of the Montana constitution requires a
 16 vote of three-fourths of the members of each house of the legislature for passage.

17
 18 NEW SECTION. Section 14. Codification instruction. [Sections 1 through 7 8] are intended to be
 19 codified as an integral part of Title 2, chapter 18, and the provisions of Title 2, chapter 18, apply to [sections 1
 20 through 7 8].

21
 22 NEW SECTION. Section 15. Effective date. [This act] is effective on passage and approval.

23 - END -